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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

ETHELYN YAZZIE on Behalf of S.M., )  
Minor Child, )

NELLIE YAZZIE on Behalf of S.B., Minor )  
Child )

Plaintiffs, )

vs. )

THE UNITED STATES OF AMERICA, )  
DEPARTMENT OF INTERIOR, BUREAU )  
OF INDIAN AFFAIRS, PUEBLO )  
PINTADO COMMUNITY SCHOOL, )  
JOHNSON ANTONIO, ROSE ANN )  
TSOSIE, KARLA A. BROWN AND ZAC J. )  
BROWN )

Defendants

Case No.: \_\_\_\_\_

**COMPLAINT FOR RECOVER DAMAGES FOR PERSONAL INJURIES**  
**RESULTING FROM AN AUTO ACCIDENT ARISING UNDER THE**  
**FEDERAL TORT CLAIMS ACT PURSUANT TO 28 U.S.C. § 2671 ET SEQ.**

Plaintiffs by and through their Attorneys, William R. Keeler, Esq. (Keeler & Keeler, LLP.) and for their complaint against the Defendants, United States of America, Department of Interior and Bureau of Indian Affairs, Pueblo Pintado Community School, Johnson Antonio,

1 Rose Ann Tsosie, Karla A. Brown and Zac J. Brown and for their cause of action, states and  
2 alleges:

3 1. This is an action pursuant to the Federal Tort Claims Act, 28 U.S.C. § 2671, et seq.  
4 (hereafter the “FTCA”) for money damages for personal injuries to the minor children, S.M. and  
5 S.B. as a result of an auto accident on June 2, 2011.

6 **PARTIES AND JURISDICTION**

7 2. At all relevant times, Ethelyn Yazzie is the parent and legal guardian of S.M., minor  
8 child.

9 3. At all relevant times, Nellie Yazzie is the parent and legal guardian of S.B., minor  
10 child.

11 4. Defendant The United States of America is a sovereign nation.

12 5. Defendant United States of America, the Department of the Interior (“DOI”) and the  
13 Bureau of Indian Affairs (“BIA”), are all federal agencies, who are amenable to suit pursuant to  
14 the Federal Tort Clams Act (“FTCA”).

15 6. At all relevant times, Defendant Johnson Antonio was an employee of Pueblo  
16 Pintado Community School and the Bureau of Indian Affairs.

17 7. Upon information and belief Defendant Karla A. Brown was the registered owner of  
18 the 2000 Kia Sportage bearing New Mexico Plates 966NDD.

19 8. Upon information and belief Defendant Zac J. Brown was a registered owner of the  
20 2000 Kia Sportage bearing New Mexico Plates 966NDD.

21 9. Upon information and belief Defendant Rose Ann Tsosie was the driver of the 2000  
22 Kia Sportage bearing New Mexico Plates 966NDD.  
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1           10. This court has jurisdiction over the parties and subject matter Pursuant to 28 U.S.C.  
2 §1346 (b) and the Constitution of the United States.

3           11. All acts and omissions within the State of New Mexico, making the venue proper  
4 over the parties and claims for relief in the United States District Court for the District of New  
5 Mexico 28 U.S.C. § 1391(e), and all events complained of herein occurred in the vicinity of  
6 Torreon, Sandoval County, New Mexico.

7           12. A federal form 95 asserting the claim of plaintiffs detailed herein was sent on the  
8 13th day July, 2012 via certified mail to U.S. Department of Interior Assistant Solicitor, Navajo  
9 Regional Office BIA, and Bureau of Indian Affairs Eastern Navajo Agency. The Assistant  
10 Solicitor; the claim was denied by Patricia Reedy, Acting Regional Solicitor, through a letter  
11 dated 6 September, 2012.

12           13. A reconsideration letter with supported documentation was mailed certified mail to  
13 Patricia Reedy, Acting Regional Solicitor with return receipt requested on February 22, 2013.

14           14. A second denial letter was received on March 4, 2013.

15           15. Process may be served, pursuant to Fed. R. Civ. P. 4(i)(1) by (a) delivering a copy of  
16 the summons and complaint by registered or certified mail to the Acting United States Attorney  
17 for the District of New Mexico Steven C. Yarbrough c/o Civil Process Clerk, whose address is  
18 P.O. Box 607, Albuquerque, New Mexico 87102, (b) by sending a copy of the summons and  
19 complaint by registered or certified mail to the Hon. Eric H. Holder, Jr. Attorney General of the  
20 United States Department of Justice, 950 Pennsylvania Ave. NW, Washington, D.C. 20530-  
21 0001, (c) by sending a copy of the summons and complaint by registered or certified mail to the  
22 Hon. Ken Salazar, Secretary, United States Department of Interior, 1849 C. St. NW,  
23 Washington, DC 20240, (d) by sending a copy of the summons and complaint by registered or  
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1 certified mail to the United States Department of the Interior, Office of the Solicitor, Southwest  
2 Regional Office, 505 Marquette Avenue NW, Suite 1800, Albuquerque, New Mexico 87102 (e)  
3 by sending a copy of the summons and complaint by registered or certified mail to Pueblo  
4 Pintado Community School, HCR 79 Box 80 Cuba, New Mexico 87013, (f) by sending a copy of  
5 the summons and complaint by registered or certified mail to Johnson Antonio, HCR 79 Box  
6 3102, Cuba New Mexico 87013, (g) by sending a copy of the summons and complaint by  
7 registered or certified mail to Rose Ann Tsosie by sending a copy of the summons and complaint  
8 by registered or certified mail to #20 Pinehill Ave, Cuba, New Mexico 87013., (h) by sending a  
9 copy of the summons and complaint by registered or certified mail to Zac J. Brown by sending a  
10 copy of the summons and complaint by registered or certified mail to P.O. Box 3636, Milan,  
11 New Mexico 87021., (i) by sending a copy of the summons and complaint by registered or  
12 certified mail to Karla A. Brown by sending a copy of the summons and complaint by registered  
13 or certified mail to P.O. Box 3636, Milan, New Mexico 87021.  
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15 **COUNT I**  
16 **NEGLIGENCE OF DEFENDANT ROSE ANN TSOSIE**

17 16. Plaintiff realleges and incorporates by reference all allegations pled in Paragraphs  
18 1 through 15 as though the same were specifically pled herein.

19 17. On June 2, 2011, Rose Ann Tsosie was operating a Blue Kia Sportage on New  
20 Mexico Highway 197 owned by Karla A. Brown and Zac J. Brown.

21 18. Rose Ann Tsosie crossed the center lane of New Mexico Highway 197 at mile  
22 marker 30 and stuck a 2009 International Yellow Bus driven by Johnson Antonio.

23 19. After hitting the school bus, Rose Ann Tsosie and her passenger Robert Trujillo Jr.  
24 fled the scene.  
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1 employee of the United States, the DOI and the BIA and in furtherance of the United States',  
2 DOI's and BIA's business with the Plaintiffs S.M. and S.B. as passengers.

3 29. At all times material hereto, Defendant United States of America operated and  
4 managed the Bureau of Indian Affairs, Pueblo Pintado Community School and the 2009 school  
5 bus bearing the license plate #G320299F.

6 30. Defendant Johnson Antonio was operating the school bus in a westbound direction  
7 on NM Highway 197, at approximately 2020 hours, at milepost 30.

8 31. Defendant Johnson Antonio had a duty to operate the school bus in a safe,  
9 reasonable, and prudent manner under the circumstances.

10 32. Defendant Johnson Antonio failed to exercise reasonable care while operating the  
11 school bus in furtherance of the DOI's and BIA's businesses.

12 33. Defendant Johnson Antonio breached his duty by failing to operate the vehicle in a  
13 safe, reasonable and prudent manner under the circumstances and without limitations, Defendant  
14 Johnson Antonio lost control of the bus causing the bus to roll over.

15 34. At all relevant times Plaintiff S.M. and S.B. had a right to liberty of their person and  
16 to have their person to be free from injury.

17 35. The defendant United States of America's employee or those deemed to be its  
18 employee acted under circumstances where the United States of America would be liable to  
19 plaintiffs if it were a private person under the laws of the State of New Mexico.

20 36. As a direct and proximate result of Johnson Antonio's act, the Plaintiffs sustained  
21 injuries.  
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1 37. These injuries, and their sequelae, have required the plaintiffs to secure necessary  
2 treatment, and for their, or subrogated parties, to incur the reasonable costs of that treatment, and  
3 transportation to, and from, the same, and will continue to do so in the future.

4 **COUNT III**  
5 **NEGLIGENCE OF THE UNITED STATES AND BUREAU OF INDIAN AFFAIRS**

6 38. Plaintiff realleges and incorporates by reference all allegations pled in Paragraphs 1  
7 through 37 as though the same were specifically pled herein.

8 39. At all times material hereto, Defendant United States of America operated and  
9 managed the Bureau of Indian Affairs, Pueblo Pintado Community School and the 2009 school  
10 bus bearing the license plate #G320299F.

11 40. It is foreseeable that a collision between the school bus that is the subject of this suit  
12 and the Kia Sportage vehicle as alleged above may occur.

13 41. It is also foreseeable that a vehicle such as the Kia Sportage, and the owners and/or  
14 operators of the Kia vehicle may not have liability insurance to cover the injuries of Plaintiff  
15 S.M. and S.B.

16 42. The United States and Bureau of Indian Affairs as the manager and operator of the  
17 Pueblo Pintado Community School and the school bus involved in the accident that is the subject  
18 of this suit has a duty to provide protection should the children of the bus suffer injuries in the  
19 manner as alleged above.  
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21 **COUNT IV**  
22 **NEGLIGENT ENTRUSTMENT**

23 43. Plaintiff realleges and incorporates by reference all allegations pled in Paragraphs 1  
24 through 42 as though the same were specifically pled herein.  
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1           44. Defendants Karla A. Brown or Zac J. Brown are the owners of the 2000 Kia  
2 Sportage entrusted to Defendant Rose Ann Tsosie at the time of the accident alleged above.

3           45. Karla A. Brown or Zac J. Brown permitted Rose Ann Tsosie to operate the 2000  
4 Kia Sportage.

5           46. Defendants Karla A. Brown or Zac J. Brown should have known that Rose Ann  
6 Tsosie would operate the Kia Sportage in such a manner as to create unreasonable risk of harm  
7 to others.

8           47. As alleged above, Rose Ann Tsosie was negligent in the operation of the Kia  
9 Sportage vehicle owned by Karla A. Brown or Zac Brown.

10           48. As a result of the negligence of Rose Ann Tsosie, Plaintiff's S.M. and S.B. suffered  
11 injuries.

12           WHEREFORE, Plaintiffs pray for judgment against all Defendants be awarded in an  
13 amount reasonable necessary to compensate the Plaintiffs damages and injuries as follows:  
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- 15           1. For compensable damages and costs;
- 16           2. For taxable cost as allowed;
- 17           3. Pain and suffering;
- 18           4. Medical costs;
- 19           5. Reduced enjoyment of life;
- 20           6. General and special damages;
- 21           7. Attorney's fee and costs;
- 22           8. Other damages the Court deems proper
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Respectfully Submitted,

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